

Sri. Nithya Shambhavananda @ R. Narayanan v. State of Karnataka, 2021
PLRonline 5204 (Kar.)

2021 PLRonline 5204 (Kar.)

HIGH COURT OF KARNATAKA AT BENGALURU

Judge : SURAJ GOVINDARAJ, J.

Sri. Nithya Shambhavananda @ R. Narayanan v. State of Karnataka

WRIT PETITION NO.10076 OF 2020 (GM-RES)

09.04.2021

CrPC S. 82, 83 - Are to be read in harmony - The word “at any time” in Section 83(1) only means that if after the issue of proclamation, either of the two conditions mentioned in Clauses (a) and (b) of the provision to Section 83(1) comes into existence, an order of attachment may be made without waiting for thirty days to expire - However, in the present case, there was no proclamation as regards the accused to be an absconder in terms of Section 82 of the Cr.P.C. - Thus, the court held that property belonging to such accused could not have been attached under Section 83 of Cr.P.C. .

Held, Section 82 and section 83 are to be read in harmony. Thus, except in cases covered by the proviso to section 82(1) the attachment order has to maintain a distance of not less than thirty days from the date of the publication under section 82. The word at any time in section 83(1) only mean that if after the issue of proclamation, either of the two conditions mentioned in Clauses (a) and (b) of the provision to section 83(1) comes into existence, an order of attachment may be made without waiting for thirty days to expire. Even is such a case the Magistrate has to record his reasons for arriving at the judicial satisfaction that such conditions as mentioned in the proviso to have come into existence as held in Devendra Singh v State of U.P., 1994 CrLJ 1783 (1788). [Para 9.6]

CrPC S. 82 , CrPC S. 83

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